82-1478

NO.

Office-Supreme Court, U.S.
FILED
MAR 3 1983
ALEXANDER L. STEVAS,
CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1982

RUSSELL S. WALSH,
DIANE WALSH,
STERLING RUSSELL WALSH,
and
ALVORA WALSH,

Petitioners

v.

PRINCE GEORGE DEPARTMENT
OF SOCIAL SERVICES,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF VIRCINIA

ROBERT S. GANEY
ATTORNEY AT LAW
HANOVER LAW BUILDING
P.O. BOX 174
HANOVER, VIRGINIA 23069

APPELLATE PRINTING SERVICES, INC., HERITAGE BLDG., RICHMOND, VA (804) 643-7789

NO. _____

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1982

RUSSELL S. WALSH,
DIANE WALSH,
STERLING RUSSELL WALSH
and
ALVORA WALSH,

Petitioners

v.

PRINCE GEORGE DEPARTMENT
OF SOCIAL SERVICES,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF VIRGINIA

Robert S. Ganey
Attorney At Law
Hanover Law Building
P.O. Box 174
Hanover, VA 23069

QUESTIONS PRESENTED

I

Does the Fourteenth Amendment require a State Supreme Court to have mandatory statutes and rules for perfecting appeals which are not vague?

II

Can an appeal, which is properly perfected before a State Supreme Court, be dismissed when the State Supreme Court relies on vague rules?

TABLE OF CONTENTS

	Page
OPINIONS BELOW.....	2
JURISDICTION.....	2
STATEMENT OF THE CASE.....	7
REASONS FOR GRANTING THE WRIT.....	16
I. PETITIONERS' RIGHT TO DUE PROCESS HAS BEEN VIOLATED BY THE REFUSAL OF THE STATE SUPREME COURT TO HEAR THEIR APPEAL RELYING ON MISGUIDED INTERPRETATION OF ITS OWN VAGUE RULES. THE PETITIONERS HAVE BEEN DENIED EQUAL PROTECTION OF THE LAW.....	
CONCLUSION.....	26

APPENDIX:

A-Order of the Circuit Court of the County of Prince George, dated November 30, 1982. . . . . App. 1

B-Notice of hearing to be held on the 18th day of December, 1981, in Prince George Circuit Court . . . . App. 7

C-Partial transcript of the proceedings of December 18, 1981 . . App. 10

D-Order of the Circuit Court of the County of Prince George, entered January 19, 1982. . . . . App. 11

E-Order of the Supreme Court of Virginia, entered October 22, 1982. . . . . App. 14

F-Partial text of Petitioners' Petition to Rehear . . . . . App. 16

G-Order of the Supreme Court of Virginia, entered on December 3, 1982. . . . . App. 19

H-Order of the Supreme
Court of Virginia,
entered on January
24, 1983 . . . . . App. 21

TABLE OF AUTHORITIES

Cases	Page
Allen v. Ekleberry 209 Va. 349	17
Aspen Mining and Smelting Co. v. Billings; 150 U.S. 31	15, 21 22
Chessman v. Teets 250 U.S. 3	23
Cobb v. Commonwealth 152 Va. 946	14, 15 17, 21
Eskridge v. Washington State Board of Prison Terms and Paroles; 357 U.S. 214	23
John Santosky, et al. v. Bernhardt S. Kramer, et al.; United States Supreme Court Record Number 80-5889	20
Statutues	
28 U.S.C. 1257 (3)	3
Rule 1:1 of the Virginia Supreme Court	4, 8, 9, 16, 17, 19, 23, 25

TABLE OF AUTHORITIES (Con'd.)

Page

Rule 5:7 of the Virginia Supreme Court..... 4, 5, 16, 17, 19, 24, 25

Rule 5:9 (a) and (b) of the Virginia Supreme Court..... 5, 6, 9, 12, 13, 18, 19, 21, 25

Texts

Vol. 16A C.J.S. Constitutional Law Section 594..... 19

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1982

NO.

RUSSELL S. WALSH, et al.,

Petitioners

v.

PRINCE GEORGE DEPARTMENT
OF SOCIAL SERVICES,

Respondent.

PETITION FOR A WRIT OF CERTIORARI
TO THE SUPREME COURT OF VIRGINIA

The petitioners, Russell S. Walsh, et al., pray that a writ of certiorari issue to review the decision of the Supreme Court of Virginia entered in this proceeding on December 3, 1982.

OPINIONS BELOW

The orders of the Supreme Court of Virginia denying petitioners' request for appeal dated October 22, 1982, and a subsequent order denying petitioners' request for a rehearing dated December 3, 1982, and the Order of the Virginia Supreme Court allowing a stay of its order pending appeal to this Court dated January 24, 1983.

JURISDICTION

The order of the Supreme Court denying petitioners' request for an appeal was entered on October 22, 1982. A subsequent order denying petitioners' request for a rehearing was entered on December 3, 1982, and this petition for certiorari is filed within 90 days of the entry of that

order. This Court's jurisdiction is invoked under 28 U.S.C. 1257 (3).

STATUTORY PROVISIONS INVOLVED

Amendments to the United States Constitution:

XIV. Section I.

> "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which will abridge the privileges or immunities of citizens of the United States; or shall any State deprive any person of life, liberty, or property, without due process or law; nor deny to any person within its jurisdiction the equal protection of the laws."

Rules of the Virginia Supreme Court:

RULE 1:1.

> "All final judgments, orders, and decrees, irrespective of terms of Court, shall remain under the control of the trial Court and subject to be modified, vacated, or suspended for twenty-one days after the date of entry, and no longer. But notwithstanding the finality of the judgment, in a criminal case the trial Court may postpone execution of the sentence in order to give the accused an opportunity to apply for a writ of error and supersedeas; such postponement, however, shall not extend the time limits hereinafter prescribed for applying for a writ of error."

RULE 5:7.

> "The filing of the notice of appeal (Rule 5:6), the transcript or written statement (Rule 5:9), the petition for appeal (Rule 5:24), and the record (Rule 5:15) within the time prescribed is mandatory. The time is not extended by the filing of a motion for a new trial, a petition for a rehearing, or a like pleading

unless the final judgment is modified, vacated, or suspended by the trial Court pursuant to Rule 1:1, in which case the time for filing shall be computed from the date of the final judgment entered following such modification, vacation, or suspension."

RULE 5:9, (a) and (b).

(a) The transcript of any hearing becomes a part of the record when the Judge of the Court below so directs in the final judgment or by order entered before or within twenty-one days after entry of final judgment, whether or not the transcript has been prepared at the time of entry of the order, and when the transcript is filed in the office of the clerk within sixty days after entry of final judgment. But no such order shall be entered at a time when the transcript has not been prepared if any party objects to its entry.

(b) The transcript of any hearing also becomes a part of the record when, within sixty days after entry of the final judgment, the transcript is filed in the office of the Clerk and a notice signed by counsel for the appellant is filed in the office of the Clerk identifying the transcript and reciting its delivery to the Clerk. There shall be appended to the notice either a certificate of counsel for the appellant that a copy of the notice has been mailed to opposing counsel or an acceptance of service of such notice by opposing counsel.

STATEMENT OF THE CASE

The Prince George Circuit Court entered four (4) Orders in this case following hearings on September 16, November 17, and December 18, 1981. Although the Orders were self-explanatory, they basically provide as follows: On November 30, 1981, the Court entered the first Order which terminated the residual parental rights of the appellants, Russell and Diane Walsh, and allowed two (2) of the three (3) children to be placed for immediate adoption.

Immediately following the entry of the November 30, 1981, Order, the petitioners, mindful of the 21 day

requirements of Rule 1:1, obtained a date with the Court on December 18, 1981, to argue for the entry of "an Order staying the Order of November 30, 1981, pending the appeal of this case to the Virginia Supreme Court".....and, in addition, "I shall ask the Court to allow the defendants visitation rights pending the appeal, and to allow the grandparents visitation rights pending the appeal".....Further, I will move the Court to make the transcript of the hearing of September 16, 1981, and November 17, 1981, a part of the record in this cause." The appellants were attempting, along with other

relief, to comply with Rule 5:9 (a) regarding the filing of the transcripts.

Proper notice of the above motion was sent to all counsel and the Court conducted a hearing on December 18, 1981, within the 21 day time limit set by Rule 1:1.

At the conclusion of the hearing on December 18, 1981, the Court refused to enter Orders providing for visitation for the petitioners, Russell and Diane Walsh, and an Order to that effect was marked "refused-denied". The Court also refused to allow the infants' grandparents to intervene and have visitation rights

and an order to that effect was marked "refused-denied".

The Court, however, directed the petitioners' counsel to prepare an Order modifying the November 30, 1981, Order, which allowed the respondent to proceed with an immediate adoption. Further, the Court ordered that the transcripts of September 16, November 17, and December 18, 1981, be made a part of the record. The Court specifically ordered "enter an Order directing a stay that no final order of adoption will be entered pending appeal of this case to the Supreme Court of Virginia" (tr. Dec. 18; p. 17 L 18-22). The Court later added

"the transcripts will be made a part of the record. If you would prepare Order to that effect....." (tr. Dec. 18; p. 19 L 9-12).

Following the Court's instructions, the petitioners prepared the Order. Following its circulation to other counsel and back to the Court, it was entered on January 19, 1982. Clearly the Order refers to a stay of the Court's prior Order of November 30, 1981, and just as clearly it modifies the November 30, 1981, Order, which allowed the respondent to proceed with an immediate adoption of the infant children in question.

No further action was taken by the Court.

The petitioners, pursuant to the Courts instructions, filed transcripts of the September 16, 1981, and the November 17, 1981, hearing, on February 5, 1981. On February 17, 1982, the transcript of the December 18, 1981, hearing, was filed. No notice of the filing of these transcripts were filed by the petitioners because the appellants felt they were simply complying with the second half of the requirements of Rule 5:9 (a), filing the transcripts in the Clerk's Office within 60 days of the entry of the

January 19, 1982, Order.

As a courtesy to other counsel, the petitioners sent notice on February 18, 1982, to other counsel that all the transcripts had been filed pursuant to the Courts prior Order. Therefore, the petitioners came technically within the requirements of Rule 5:9 (b) as well as having previously met the requirements of Rule 5:9 (a).

All other jurisdictional requirements of this appeal have been met without question.

Following the dismissal of this appeal on October 22, 1982, the petitioners filed a petition to rehear. The petitioners, in part, asserted that their constitutional due process and equal protection rights were violated because of vague statutes. The petitioners cited the established Virginia law as set out in Cobb v. Commonwealth 152 Va. 946, which held "that where the record showed that a motion to set aside or vacate a judgment had been made and taken under consideration by the trial court before the judgment had become final, the time for perfecting an appeal ran from the

date in which such motion was disposed of." (152 Va. 946, 947, 146 S.E. at 271, 272). The Cobb v. Commonwealth case cited the prior United States Supreme Court's consistent ruling for civil cases in Circuit Courts as cited in Aspen Mining and Smelting Co. v. Billings, 150 U.S. 31 at 36.

Despite this apparent overwhelming authority, the Virginis Supreme Court refused to rehear this case.

REASONS FOR GRANTING THE WRIT

Pursuant to Rule 1:1, the petitioners obtained a modification, vacation and/or suspension of the Court's order of November 30, 1981. This was done on December 18, 1981, pursuant to Rule 1:1.

Rule 5:7 "Extention of Time" clearly provides that the time is extended when an Order is modified, vacated, or suspended by the trial Court pursuant to Rule 1:1. As a result of the trial Court's action on December 18, 1981, time computations only began to run following the entry of the January 19, 1982, Order. Rule 5:7, Rule 1:1.

In Cobb v. Commonwealth cited in Allen v. Ekleberry 209 Va. 349 at 351, this Court ruled "that where the record showed that a motion to set aside or vacate a judgment of conviction had been made and taken under consideration by the trial Court before the judgment had become final, the time for perfecting an appeal ran from the date in which such motion was disposed of." (152 Va. 946, 947, 146 S.E. at 271, 272).

Rule 5:7 clearly provides when an Order is "modified, vacated, or suspended by the trial Court, pursuant to Rule 1:1, in which case

the time for filing shall be computed from the date of the final judgment entered following such modification, vacation, or suspension."

When the final order was entered on January 19, 1982, and the transcripts were filed in the Office of the Clerk on February 5, 1982, and February 17, 1982, all the requirements of Rule 5:9 (a) had been met.

When notice of filing was mailed as a courtesy to other counsel on February 18, 1982, the requirements of Rule 5:9 (b) were met.

Clearly the petitioners' case should not have been dismissed for noncompliance with Rule 5:9. Any

reasonable interpretation of the combined application of Rules 5:7, 5:9, and Rule 1:1 should allow this Court to reverse the order of October 22, 1981. Any other interpretation would deny the petitioners constitutional due process and equal protection because of vague statutes.

Certainly states have the general right to determine what can be appealed and to set reasonable time limits for prefected appeals. But if an allowance for an appeal is made, then due process requirements come into play. Vol. 16A C.J.S. Constitutional Law Section 594.

The United States Supreme Court recently decided on March 24, 1982, in the case of John Santosky, et al. v. Bernhardt S. Kramer, et al., (Supreme Court Record Number 80-5889), that the Due Process Clause of the Fourteenth Amendment requires that before a state may sever completely and irrevocably the rights of parents in their natural children, clear and convincing evidence is necessary. The petitioners have alleged this violation along with many others in their appeal which was dismissed because of vague statutes and the Virginia Supreme Court's selective interpretation of its vague rules.

Under the precedent set down by Cobb v. Commonwealth the petitioners were clearly in compliance with the filing requirements of the Virginia Supreme Court under Rule 5:9. No specific reason was given for the dismissal under Rule 5:9.

What concerns the petitioners is that they are being denied due process and equal protection of the law.

The United States Supreme Court case of Aspen Mining and Smelting Co. v. Billings 150 U.S. 32, cited in Cobb v. Commonwealth at 152 Va. 941 at 947, makes it abundantly clear that Federal Circuit Court in civil cases have long recognized the effect of a petition for rehearing. The

Aspen Court held that "it was decided, that if a motion or petition for rehearing is made or presented in reason, and entertained by the Court, the time limited for writ of error or appeal does not begin to run until the motion is disposed of." "Until then" says the Court (150 U.S. at page 36, 14 Sup. Ct. at page 6, 37 L Ed. 986), "the judgment or decree does not take final effect for the purposes of the error appeal."

Certainly the rights to have a perpared transcript are well established by the United States Supreme Court. Whether the issue be

allegations of fraud, Chessman v. Teets 350 U.S. 3, or rights of indigent parties, Eskridge v. Washington State Board of Prison Terms and Paroles, 357 U.S. 214.

While the Virginia Supreme Court may certainly makes rules regarding the perfecting of appeals, if either on their face or in their application, or because of inconsistent case opinions interpreting there rules, due process or equal protection is denied, then petitioners are entitled to certiorari.

Under the facts of this case, petitioners filed for a stay and other relief within the time requirements of Rule 1:1. The Court

at the December 18, 1981, hearing, modified the terms of the November 30, 1981, order. In fact, the provision calling for allowing an immediate adoption was vacated. The trial Judge directed the petitioners to "prepare the Order" reflecting this stay, modification and vacation. Rule 5:7 therefore comes into play.

In this case the Order had to be circulated between counsel many miles apart and then sent to the Clerk's Office for the Circuit Judge to enter. As was argued in the petition to rehear, this procedure took time. The lower Circuit Judge is a Judge for an entire Circuit of

many counties. The judgment was simply not final until the Order of January 19, 1982, was entered. Rule 5:7.

The petitioners are being denied their rights to an appeal. The combined effect of Rule 1:1, 5:7, and 5:9 is unconstitutionally vague. The petitioners have, under the Virginia and United States Constitution, rights to a full appeal.

CONCLUSION

The petitioners argue that a writ of certiorari should issue to the Virginia Supreme Court. Their due process and equal protection rights have been violated by the Virginia Supreme Court Order of December 3, 1982. They pray for a writ to restore their appeal before the Virginia Supreme Court.

RUSSELL S. WALSH, et al.,

BY _____
Counsel

ROBERT S. GANEY
ATTORNEY AT LAW
HANOVER LAW BUILDING
P.O. BOX 174
HANOVER, VA 23069
Counsel for the Petitioners

APPENDIX A

VIRGINIA:

IN THE CIRCUIT COURT OF THE

COUNTY OF PRINCE GEORGE.

PRINCE GEORGE DEPARTMENT OF SOCIAL SERVICES,

Plaintiff

vs.

RUSSELL S. WALSH and DIANE WALSH

IN RE: AMOS LAWRENCE WALSH
and EVERETTE STERLING WALSH,
infants

O R D E R

This cause came on this day to be heard upon the appeal of Russell S. Walsh and Diane Walsh from the Order of the Prince George Juvenile and Domestic Relations District Court of March 10, 1981, terminating the defendant's parental rights to the

to the above-named infants, appearing in person and represented by counsel, Prince George Department of Social Services by William Andrews and Shari Ferguson, being present in Court in person and represented by counsel, and also present Curtis Butterworth, guardian ad litem for Amos Lawrence Walsh and Everette Sterling Walsh, testimony by all parties and other witnesses having been heard by the Court and was argued.

It appearing to the Court that the Petition of the Prince George Department of Social Services prays for the termination of the residual parental rights of Russell S. Walsh and Diane Walsh, in the children,

Amos Lawrence Walsh and Everette Sterling Walsh, pursuant to the provisions of Virginia Code Section 16.1-283, subsection (b), and upon consideration thereof, based upon clear and convincing evidence, the Court does find as follows:

(1) That the infants, Amos Lawrence Walsh and Everette Walsh, were committed to the care of the Prince George Department of Social Services due to the abuse and neglect of said infants by the natural parents, Russell S. Walsh and Diane Walsh;

(2) That the abuse and neglect suffered by said infants presented a serious and substantial threat to their health and development.

(3) That Russell S. Walsh and Diane Walsh, totally without good cause, failed and were unwilling and unable to make any reasonable progress towards the elimination of the conditions which led to the infants' placement in foster care, despite diligent efforts of the Prince George Department of Social Services to assist them;

(4) That the best interests of the infants, Amos Lawrence Walsh and Everette Sterling Walsh, require that the residual parental rights of Russell S. Walsh and Diane Walsh be terminated.

(5) That in the past thirty days Russell S. Walsh and Diane Walsh have failed to present to this Court any plan of psychiatric treatment or psychological counseling to alleviate the conditions which led to the commitment of said infants.

In accordance with said findings, it is hereby ADJUDGED, ORDERED and DECREED that the residual parental rights of Russell S. Walsh and Diane Walsh are hereby terminated; that the custody heretofore granted to the Prince George Department of Social Services is hereby continued, and that the Prince George Department of Social Services shall have full authority to place the said infants

for adoption and consent thereto.

Enter: 11 / 30 / 81

/s/ Robert G. O'Hara, Jr.

I ask for this:

/s/ John T. Wood

Seen and objected to:

/s/ Robert S. Ganey

A copy Teste:

/s/ Kenneth L. Figg, Jr.

APPENDIX B

VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY

OF PRINCE GEORGE

PRINCE GEORGE DEPARTMENT OF SOCIAL SERVICES,

Plaintiff

v.

RUSSELL S. WALSH and DIANE WALSH

IN RE: AMOS LAWRENCE WALSH
and EVERETTE STERLING WALSH,
infants

N O T I C E

TO: John T. Wood, Esquire
WOOD, HARDY, SHANNON & McCANN
800 S. Sycamore Street
P.O. Box 448
Petersburg, VA 23803

and

Curtis H. Butterworth, Esquire
Guardian Ad Litem
ELIADES and BUTTERWORTH
731 W. Broadway
P.O. Box 1007
Hopewell, VA 23860

TAKE NOTICE that on the 18th day of December, 1981, at 10:00 A.M. or as soon thereafter as I may be heard, I shall appear before the Honorable Robert G. O'Hara, Judge, at the Circuit Court of the City of Hopewell, Hopewell, Virginia, and move the Court to enter an Order staying the Order of November 30, 1981, pending the Appeal of this case to the Virginia Supreme Court.

In addition, I shall ask the Court to allow the grandparents visitation rights pending the appeal.

Further, I will move the Court to make the transcript of the hearing of September 16, 1981, and November 17, 1981, a part of the record in

this cause.

RUSSELL S. WALSH
and DIANE WALSH

BY /s/
Counsel

Robert S. Ganey
Attorney At Law
Hanover Law Building
P.O. Box 174
Hanover, VA 23069

Certificate

I hereby certify that a true copy of the foregoing Notice was mailed this _____day of December, 1981, to John T. Wood, Esquire, at WOOD, HARDY, SHANNON & McCANN, 800 S. Sycamore Street, P.O. Box 448, Petesburg, VA, 23803; and to Curtis H. Butterworth, Guardian At Litem, ELIADES and BUTTERWORTH, 731 W. Broadway, P.O. Box 1007, Hopewell, VA, 23860.

/s/
Robert S. Ganey

APPENDIX C

PARTIAL TRANSCRIPT OF THE PROCEEDINGS OF DECEMBER 18, 1981:

..... The Court, however, will enter an order directing a stay that no final order of adoption will be entered pending appeal of this case to the Supreme Court of Virginia.....

P. 17; Line 18 - 22

THE COURT: I would ask you prepare the order.

MR. GANEY: Yes, sir.

P. 18; Line 6 - 8

APPENDIX D

VIRGINIA:

IN THE CIRCUIT COURT OF THE

COUNTY OF PRINCE GEORGE

PRINCE GEORGE DEPARTMENT OF SOCIAL SERVICES,

Plaintiff

v.

RUSSELL S. WALSH and DIANE WALSH

IN RE: AMOS LAWRENCE WALSH
and EVERETTE STERLING WALSH,
infants.

ORDER

This day came the defendants on their motion for a stay of the Court's Order of November 30, 1981, and was argued by counsel.

Upon Consideration Whereof, the plaintiff is enjoined and restrained from entering an Order of final

adoption pending the appeal of this case to the Virginia Supreme Court. Should the Virginia Supreme Court deny said appeal in this matter, this Order shall automatically become null and void whereupon the plaintiff may seek the entry of an Order of final adoption.

It is also Ordered that the transcripts of this cause are made a part of the record including September 16, 1981, November 17, and December 18, 1981.

Enter: 1 / 19 / 82

/s/ Robert G. O'Hara, Jr.
Judge

I ask for this:

/s/ Robert S. Ganey p.d.

Seen:

/s/ John T. Wood

/s/ Curtis H. Butterworth
Guardian Ad Litem

A Copy Teste:

/s/ Kenneth L. Figg, Jr.

APPENDIX E

VIRGINIA:

IN THE SUPREME COURT OF VIRGINIA

HELD AT THE SUPREME COURT BUILDING IN THE CITY OF RICHMOND ON FRIDAY, THE 22ND DAY OF OCTOBER, 1982.

Russell S. Walsh, et al.,

Appellants,

against Record No. 820385
Circuit Court Nos.,
81-45/82-281C and
81-46/81-282C

Prince George Department of Social Services,

Appellee.

From the Circuit Court
Of Prince George County

Finding that the appeal was not perfected in the manner provided by law, the Court dismisses the

petition for appeal filed in the above-styled case. Rule 5:9.

A Copy,

Teste:

/s/ Allen L. Lucy
Clerk

APPENDIX F

PARTIAL TEXT OF PETITIONERS' PETITION TO REHEAR:

.....Rule 5:7 "Extention of Time" clearly provides that the time is extended when an Order is modified, vacated, or suspended by the trial Court pursuant to Rule 1:1. As a result of the trial Court's action on December 18, 1981, time computations only began to run following the entry of the January 19, 1982, order. Rule 5:7; Rule 1:1. In Cobb v. Commonwealth cited in Allen v. Ekleberry 209 Va. 349 at 351, this Court ruled "that where the record showed that a motion to set aside or

vacate a judgment of conviction had been made and taken under consideration by the trial Court before the judgment had become final, the time for perfecting an appeal ran from the date in which such motion was disposed of." (152 Va. 946, 947, 146 S.E. at 271, 272).....

.....Clearly the petitioners' case should not have been dismissed for noncompliance with Rule 5:9. Any reasonable interpretation of the combined application of Rules 5:7, 5:9, and Rule 1:1 should allow this Court to reverse its order of October 22, 1981. Any other interpretation would deny the petitioners constitu-

tional due process and equal protection because of vague statutes.

APPENDIX G

VIRGINIA:

IN THE SUPREME COURT OF VIRGINIA HELD AT THE SUPREME COURT BUILDING IN THE CITY OF RICHMOND ON FRIDAY, THE 3RD DAY OF DECEMBER, 1982.

Russell S. Walsh, et al.,
Appellants

against Record No. 820385
Circuit Court Nos.
81-45/81-281C and
81-46/81-282C

Prince George Department of Social Services,
Appellee.

Upon a Petition for Rehearing

On consideration of the petition of the appellants to set aside the judgment rendered herein on the 22nd day of October, 1982, and grant a

rehearing thereof, the prayer of the said petition is denied.

A Copy,

Teste:

/s/ Allen L. Lucy
Clerk

APPENDIX H

VIRGINIA:

IN THE SUPREME COURT OF VIRGINIA

HELD AT THE SUPPEME COURT BUILDING

IN THE CITY OF RICHMOND ON MONDAY,

THE 24TH DAY OF JANUARY, 1983.

Russell S. Walsh, et al.
Appellants,

against Record No. 820385
Circuit Court Nos.
81-45/82-281C and
81-46/81-282C

Prince George Department of
Social Services,
Appellee.

From the Circuit Court
of Prince George County

On December 20, 1982, came the appellants, by counsel, and filed a motion for a stay pending appeal to the United State Supreme Court.

Thereupon came the appellee, by counsel, and filed a response in opposition to said motion.

On consideration whereof it is now ordered that the execution and enforcement of the judgment of this Court in the above-entitled case rendered on October 22, 1982, and December 3, 1982, be, and the same is hereby, stayed, to and including the 3rd day of March, 1983, on the expiration of which time the same may be enforced, unless before that time a notice of appeal to the Supreme Court of the United States and the case is thereafter docketed therein within the time provided by the

Rules of that court, in which event enforcement thereof shall be stayed until the final determination of the case by that court.

A Copy,

Teste:

Allen L. Lucy, Clerk

By: /s/ David B. Beach
Deputy Clerk